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10/673,006	09/26/2003	Adriana Kliegman	435600	9528

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EXAMINER

WALCZAK, DAVID J

ART UNIT

PAPER NUMBER

3751

DATE MAILED: 05/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/673,006	Applicant(s) KLIEGMAN ET AL.	
	Examiner David J. Walczak	Art Unit 3751	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 08 April 2005.
- 2a) ☐ This action is **FINAL**.      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) 23-30 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3, 5-18 and 20-22 is/are rejected.
- 7) ☒ Claim(s) 4 and 19 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 January 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>11/17/03</u> . | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Election***

Applicant's election without traverse of Group I (claims 1-22) in the reply filed on 4/8/05 is acknowledged. Claims 23-30 are hereby withdrawn from further consideration. In regard to the election of species requirement, after further consideration, the requirement to elect a particular species and sub-species is hereby withdrawn. Accordingly, claims 1-22 will be examined herein.

### ***Drawings***

The drawings are objected to because reference characters 49 (page 5, line 19), 105a/105b (page 9, line 12) and 126 (page 10, line 9) are not present in any of the drawings. Further, in Figure 2A, reference character 101 does not have a leader line attached thereto. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date

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of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Specification***

The disclosure is objected to because of the following informalities: On page 7, lines 14 and 16, it appears that "FIG. 5" should be --FIG. 4--. Further, on page 7, line 14, "spring finger 58" should be --spring finger 68-- and on page 11, line 11, "valve 90" should be --valve 70--. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

Claims 1- 5, 7 and 21 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claims contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. In regard to claims 1 and 21, the specification has not defined how the claimed structure enables a "variable volume orientation" of the fluid, i.e., the specification discloses that different devices may have elements of varying sizes so that different devices can dispensed different amounts of fluid, however, the specification has not defined how a single device having a components of a particular structure (as claimed) can "provide a variable volume orientation". In regard to claim 5, the specification has not defined a push button that includes both a pair of ribs (claim 2) and

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a "resilient arm" (claim 5). In regard to claim 7, the specification has not defined a latch lever that "includes" a finger, i.e., currently latch lever 52 does not seem to "include" finger 68 (see Figure 5).

Claims 4, 12, 14, 15 and 16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In regard to claim 4, an antecedent basis for "the dome portion" should be defined (it appears that claim 4 should depend from claim 3, as opposed to claim 2, as the dome portion has been defined in claim 3). In regard to claim 12, an antecedent basis for "the domed shaped button" should be defined. In regard to claim 14, an antecedent basis for "the wedge-shaped projection of the housing" should be defined (It appears that claim 14 should depend from claim 7, as opposed to claim 6). In regard to claim 15, an antecedent basis for "the projection" should be defined. It appears that claim 15 should depend from claim 7 (as opposed to claim 6) as the projection is first defined in claim 7.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3, 17, 18 and 20-22 are rejected under 35 U.S.C. 102(b) as being anticipated by Holiday et al. (hereinafter Holiday). In regard to claim 1, Holiday

discloses a fluid dispensing apparatus comprised of a body 12 defining a fluid reservoir therein, a handle 40 carried by the body, a work engaging medium 14 carried by the body, a valve assembly 34 carried by the body for providing communication between the reservoir and the medium and a flexible and resilient button 16 mounted on the body for movement between rest and depressed positions wherein the button is manually deflectable to increase pressure within the reservoir in order to activate the valve and to provide a "variable volume orientation" of fluid dispensing so that a predetermined volume of fluid is dispensed. In regard to claim 2, the button includes a bias member 22 having a pair of ribs (viewing Figure 6A, the portion of the bellows projected inwardly) disposed along an interior of the button. In regard to claim 3, the button includes a flexible dome portion (viewing Figure 6A, the outer surface of the last bellow section adjacent element 35) depressible by a user (via element 30) to move the button inwardly to a depressed position and each rib has a "generally triangular shape" and attached to the interior in order to bias the dome outwardly to a rest position. In regard to claim 17, Holiday discloses a fluid dispensing apparatus comprised of a handle 12 having a reservoir, a button having a predetermined surface area 16 mounted on the handle, a resilient member 22 carried by the button for providing an increase in pressure when depressed, a block 15 attached to the handle and having a cleaning medium 14 thereon and a valve 34 disposed on the handle and having a "predetermined deflection operation" wherein the surface area of the button and the deflection operation of the valve coordinate to provide a predetermined volume of fluid to be dispensed. In regard to claim 18, as discussed above, the button includes an

interior rib. In regard to claim 20, the button is "removably mounted" in an aperture in the handle. In regard to claim 21, the apparatus provides for a "variable volume orientation" of the valve and button in order to provide a predetermined volume of fluid to be dispensed. In regard to claim 22, the handle includes a plate 32 having a retaining ring 36 (see Figure 6A) into which the valve is mounted.

Claims 6, 7 and 10-16 are rejected under 35 U.S.C. 102(b) as being anticipated by Perry. In regard to claim 6, Perry discloses a housing 23 defining a fluid reservoir therein, a first coupling structure 40 on the housing, a holder 60 having a second coupling structure 61 and a latch lever 68 disposed adjacent to the second coupling structure wherein the latch lever extends along the bottom of the holder and is for latching engagement with the housing for mounting the holder to the housing when the first and second coupling structures are coupled, a work engaging medium 59 carried by the holder and valve 70 carried by the housing and cooperating with the holder to provide communication between the reservoir and the medium. In regard to claim 7, the latch lever 68 includes a finger 69 that engages an "end wall" of the housing and the first coupling structure includes a wedge-shaped projection 43 (see Figure 10). In regard to claim 10, the second coupling structure includes a wedge-shaped recess 61 and the projection and recess have mating dovetail shapes in cross-section. In regard to claim 11, the housing has a resilient button 90 having a bias member 80. In regard to claim 12, the bias member is a "rib" which runs along the interior (at 83) of the dome-shaped button. In regard to claim 13, the apparatus is a "kitchen brush and the work engaging medium 59 is a plurality of bristles. In regard to claim 14, the holder includes

a resilient spring finger (the other lever 68) that biases against the wedge-shaped projection of the housing. In regard to claims 15 and 16, the projection is formed on a plate 40 that is welded to the housing (see column 3, lines 60-64).

Claims 6, 8 and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by Chow et al. (hereinafter Chow). In regard to claim 6, Chow discloses a housing (the hose attached to connection 4) defining a fluid reservoir therein, a first coupling structure 12 on the housing, a holder 32 having a second coupling structure 36, and a latch lever 38, 36 disposed adjacent to the second coupling structure wherein the latch lever extends along the "bottom" of the holder and is for latching engagement with the housing for mounting the holder to the housing when the first and second coupling structures are coupled, a work engaging medium 40 carried by the holder and valve 22 carried by the housing and cooperating with the holder to provide communication between the reservoir and the medium. In regard to claim 8, the latch lever 38 includes a tab (see Figure 3) that is depressible to release the latch lever from the housing. In regard to claim 9, the lever includes a proximate end attached to a bottom of a recess of the holder (see Figure 3).

#### ***Allowable Subject Matter***

Claims 4 and 19 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.




**Conclusion**

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The Colburn et al. and Jacobs references are cited for disclosing other dispensing devices.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David J. Walczak whose telephone number is 571-272-4895. The examiner can normally be reached on Mon-Thurs, 6:30- 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Justine Yu can be reached on 571-272-4835. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



David J. Walczak  
Primary Examiner  
Art Unit 3751

DJW  
5/17/05